

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER NORMAN DE CAMP,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:22-cv-01289-BAM

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE

FINDINGS AND RECOMMENDATIONS
RECOMMENDING PLAINTIFF'S
APPLICATION FOR LEAVE TO PROCEED
IN *FORMA PAUPERIS* BE DENIED

(Doc. 2)

FOURTEEN (14) DAY DEADLINE

Plaintiff Christopher Norman De Camp ("Plaintiff"), proceeding with counsel, seeks review of a decision of the Commissioner of Social Security. Plaintiff initiated this action on October 7, 2022. (Doc. 1.) On the same day, Plaintiff filed an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc. 2.).

According to Plaintiff's application, he receives monthly income from employment in the amount of \$500.00 per month. He also receives VA disability benefits of \$2,116.00 per month. (Doc. 2 at 2.) This amounts to an annual income of \$31,392.00 (\$2,616.00 x 12 months).

Plaintiff has no dependents. (*Id.* at 2.)

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1 “To satisfy the requirements of 28 U.S.C. § 1915, applicants must demonstrate that
2 because of poverty, they cannot meet court costs and still provide themselves, and any
3 dependents, with the necessities of life.” *Soldani v. Comm’r of Soc. Sec.*, No. 1:19-cv-00040,
4 2019 WL 2160380, at *1 (E.D. Cal. Jan. 31, 2019). Many courts look to the federal poverty
5 guidelines set by the United States Department of Health and Human Services (“HHS”) as a
6 guidepost in evaluating in forma pauperis applications. *See Martinez v. Kristi Kleaners, Inc.*, 364
7 F.3d 1305, 1307 n.5 (11th Cir. 2004); *Boulas v. United States Postal Serv.*, No. 1:18-cv-01163-
8 LJO-BAM, 2018 WL 6615075, at *1 (E.D. Cal. Nov. 1, 2018) (applying federal poverty
9 guidelines to in forma pauperis application). For a family or household of one, the 2022 poverty
10 guideline is \$13,590.00. *See U.S. Federal Poverty Guidelines Used to Determine Financial*
11 *Eligibility for Certain Federal Programs*, available at <https://aspe.hhs.gov/poverty-guidelines>
12 (last visited October 12, 2022).

13 Having considered Plaintiff’s application, the Court finds that he has not made the
14 showing required by section 1915 that he is unable to pay the required fees for this action.
15 Plaintiff has attested to employment income along with monthly VA disability benefits.
16 Plaintiff’s household estimated annual income is more than double the federal poverty guidelines.
17 In light of this, there is no indication that Plaintiff is unable to pay the filing fee while also
18 providing for the necessities of life. Accordingly, the Clerk of the Court is HEREBY
19 DIRECTED to randomly assign a District Judge to this action.

20 Furthermore, it is HEREBY RECOMMENDED that:

21 1. Plaintiff’s application to proceed without prepayment of fees and costs (Doc. 2) be
22 DENIED; and
23 2. Plaintiff be required to pay the \$402.00 filing fee in full to proceed with this
24 action.

25 These findings and recommendations are submitted to the United States District Judge
26 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
27 (**14**) **days** after being served with these findings and recommendations, Plaintiff may file written
28 objections with the Court. Such a document should be captioned “Objections to Magistrate

1 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within
2 the specified time may result in the waiver of rights on appeal. *Wilkerston v. Wheeler*, 772 F.3d
3 834, 838-39 (9th Cir. 2014) (*citing Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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5 IT IS SO ORDERED.
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Dated: October 12, 2022

/s/ *Barbara A. McAuliffe*
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UNITED STATES MAGISTRATE JUDGE